

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:21-CV-374-FL

SHELIA Y. LEE,

Plaintiff,

v.

CUMBERLAND COUNTY SHERIFF'S  
DEPARTMENT,

Defendant.

ORDER

This matter is before the court for review of plaintiff's pro se complaint (DE 1-1) pursuant to 28 U.S.C. § 1915(e).<sup>1</sup> United States Magistrate Judge Robert B. Jones, Jr., entered memorandum and recommendation ("M&R"), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein it is recommended that plaintiff's complaint be dismissed in part and allowed to proceed in part. Plaintiff did not file objections to the M&R, and the time within which to make any objection has expired. In this posture, the issues raised are ripe for ruling.

Upon a careful review of the M&R, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Because no objections have been filed, the court reviews the magistrate judge's findings and conclusions only for clear error, and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

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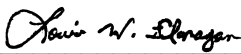
<sup>1</sup> Because plaintiff has failed to file a redacted version of her complaint, as noticed multiple times by the clerk, the court deems her to have waived the protection of Federal Rule of Civil Procedure 5.2(a). Fed. R. Civ. P. 5.2(h). The clerk is DIRECTED to unseal the proposed complaint (DE 1-1).

Here, the magistrate judge recommends that plaintiff's 42 U.S.C. § 1983 claim be allowed to proceed but be construed as one against the allegedly offending Cumberland County Sheriff's Department officer, Deputy Krimbell. Further, the magistrate judge recommends that plaintiff's remaining claims, including ones on behalf of her minor grandson, be dismissed.

Upon careful review of the M&R, the court finds the magistrate judge's analysis to be thorough, and there is no clear error. The court hereby ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, plaintiff's claims against defendant Cumberland County Sheriff's Department are DISMISSED WITH PREJUDICE. Her claims on behalf of her minor grandson are DISMISSED WITHOUT PREJUDICE. The court allows plaintiff's § 1983 claim to proceed as being one against Deputy Krimbell, officer of the Cumberland County Sheriff's Department, in his individual capacity, who is hereby designated as the proper party defendant in this case.<sup>2</sup>

Accordingly, the court DIRECTS the clerk to amend the caption as described herein. Plaintiff is DIRECTED to file, within **21 days** of entry of this order, completed, proposed summons for Deputy Krimbell, pursuant to Federal Rule of Civil Procedure 4(a) and (b). Once received and if properly completed, the clerk is DIRECTED to serve plaintiff's summons and complaint by a United States marshal or deputy marshal in accordance with Rule 4(c)(3).

SO ORDERED, this the 1st day of December, 2021.

  
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LOUISE W. FLANAGAN  
United States District Judge

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<sup>2</sup> The first name of this defendant is not specified in the complaint, the M&R, or any materials of record, but that individual is identified as being a deputy with the Cumberland County Sheriff's Department. (Compl. (DE 1-1) at 2).